

## V. Fair Use

PE 154-000-031-0945  
Figueira Decl. Tab  
154 - Part 3

- “Fair Use” – Used for purposes of criticism, comment, news reporting, teaching, scholarship or research:
  - Purpose & character (“commercial” use vs. non-profit educational)
  - Nature of the work
  - Amount & substantiality used in relation to the whole
  - Effect of use on potential market
- Parody
  - Critical comment on original (famous) work which reflects original perspective of parodist – thereby giving the parody social value beyond its entertainment function



## V. Fair Use

- **Not a fair use.** An author mimicked the style of a Dr. Seuss book while re-telling the facts of the O.J. Simpson murder trial in *The Cat NOT in the Hat! A Parody by Dr. Juice*. The author's work was nontransformative and commercial.
- **Fair use.** The rap group 2 Live Crew borrowed the opening musical tag and the words (but not the melody) from the first line of the song "Pretty Woman." The rest of the lyrics and the music were different. **Important factors:** The group's use was transformative and borrowed only a small portion of the "Pretty Woman" song. The 2 Live Crew version was essentially a different piece of music and the only similarity was a brief musical opening part and the opening line.
- Fair Use is always a risk because court decides.
- Hard to base a business model on Fair Use.



## VI. Public Domain

- Has the copyright expired?
  - Life of author + fifty years, or 75 years from first publication or 100 years from creation, for a company.
- Is the material from a U.S. government document?
- Is the speech given by a public official as part of his or her job?
- Is the material common knowledge or common facts?



# Using Other People's Property

- Put it in your own words
- Find similar material in the public domain
- Get permission
  - Locate the permission grantor
  - Send a letter stating what you wish to use and how you wish to use it
  - Follow the stipulations of a written agreement carefully
- Get help and legal advice





# Obtaining Legal Advice

- Hire a lawyer. Call your local bar association.
- NY Volunteer Lawyers for the Arts:  
[www.vlany.org](http://www.vlany.org)
  - **The Art Law Line** : 212-319-ARTS  
(2787), ext.1 Monday to Friday, 10-4
- Local chapters of VLA in 10 cities, have pro-bono lawyers
- <http://fairuse.stanford.edu/>
- <http://chillingeffects.org>
- Fair use proj. at Stanford Ctr. for Internet Soc.



# Common Myths

- If I use my videocamera, its my copy
- If I edit together other works, its my original work
- If I only use 30 seconds of a song or video clip, I'm not infringing
- If I can download it from the Internet, its in the public domain
- If I paid for it, I can use it for any purpose.
- If its properly attributed it to the author, its not infringement.

